

AMENDED IN SENATE AUGUST 22, 2006
AMENDED IN SENATE AUGUST 7, 2006
AMENDED IN SENATE JUNE 22, 2006
AMENDED IN ASSEMBLY JANUARY 4, 2006
AMENDED IN ASSEMBLY APRIL 25, 2005
CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 607

Introduced by Assembly Member Goldberg
(Coauthors: Senators Alquist, Romero, and Torlakson)

February 17, 2005

An act to amend Sections 1240, 17002, 17592.72, 35186, and 60119 of, and to add Sections 1242 and 1242.5 to, the Education Code, relating to school facilities, *and making an appropriation therefor*.

LEGISLATIVE COUNSEL'S DIGEST

AB 607, as amended, Goldberg. School Facilities Emergency Repair Account.

(1) Existing law requires a county superintendent of schools, among other things, to visit and examine each school in the county to observe its operation and learn of its problems. Existing law requires the county superintendent to annually present a report to the governing board of each school district under his or her jurisdiction, and to the board of supervisors of the county, describing the state of the schools in the county that are ranked in deciles 1 to 3, inclusive, of the 2003 base Academic Performance Index (API).

This bill would require the annual report to be ~~presented~~ *submitted* in November at a regularly scheduled meeting of the *governing* board. The bill would require the report to include certain determinations for each school and teacher misassignments and teacher vacancies and would require the county superintendent, or his or her designee, to use a standardized template to report those details, unless those details are already being reported by the county superintendent, or his or her designee.

The bill would require commencing with the 2006–07 fiscal year, certain funds appropriated pursuant to the Budget Act of 2006 to county offices of education for ~~Williams audits~~ *site visits* to be allocated to elementary, middle or junior, and high schools, as specified. The bill would provide an additional allocation, as specified, to county offices of education that are responsible for visiting more than 150 school sites. The bill would set \$10,000 as the minimum amount for allocation to county offices of education.

The bill would require the ~~department~~ *State Department of Education* to review the actual costs of ~~2006–07~~ *2005–06* fiscal year ~~Williams audits~~ *site visits* conducted and if the department determines that a county office of education did not expend the funds allocated, the amount that exceeds the amount spent shall revert to a certain fund and would be available to cover certain extraordinary costs incurred by county offices of education. The bill would require the department to allocate the funds to county offices of education by June 30, 2007.

(2) Existing law establishes the School Facilities Emergency Repair Account in the State Treasury, to be administered by *the* State Allocation Board, for the purpose of reimbursing school districts with schools ranked in deciles 1 to 3, inclusive, on the API, as specified, for emergency facility repairs, as provided.

This bill would provide that, commencing with the 2006–07 fiscal year, the money in the account is also available to fund grants for certain, listed necessary repairs that meet certain conditions. The bill would require the board to establish a process for schools to apply for the grants and provide certification of the completion of the projects. The bill would require the board to post the grant application form on its Internet Web site.

(3) Existing law requires a school district to use its uniform complaint process to help identify and resolve any deficiencies related to instructional materials, conditions of facilities that are not maintained in a clean and safe manner or in good repair, and teacher

vacancy or misassignment. Existing law requires a notice to be posted in each classroom in each school in the school district notifying parents and guardians that there should be sufficient textbooks or instructional materials, school facilities must be clean, safe, and in good repair, and there should be no teacher vacancies or misassignments, as defined. Existing law also requires the notice to inform parents of the location to obtain a form to file a complaint in case of a shortage. Existing law authorizes a complaint to be filed anonymously. If a complainant identified himself or herself, the complainant is entitled to a response if he or she indicates that a response is requested.

This bill would require, if certain conditions are met, the report and response, if requested, to be written in English and the primary language in which the complaint was filed, thereby establishing a state-mandated local program.

(4) This bill would make other technical, nonsubstantive changes to existing law.

(5) This bill would make an appropriation by requiring the remaining unencumbered balance of certain funds appropriated to county offices of education for certain reviews and monitoring of schools and to conduct and report on site visits, as specified, to remain available for expenditure through June 30, 2008, for purposes of certain site visit reports on the state of certain schools.

~~(5)~~

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1240 of the Education Code is amended
2 to read:

1 1240. The county superintendent of schools shall do all of the
2 following:

3 (a) Superintend the schools of his or her county.

4 (b) Maintain responsibility for the fiscal oversight of each
5 school district in his or her county pursuant to the authority
6 granted by this code.

7 (c) (1) Visit and examine each school in his or her county at
8 reasonable intervals to observe its operation and to learn of its
9 problems. He or she may annually present a report of the state of
10 the schools in his or her county, and of his or her office,
11 including, but not limited to, his or her observations while
12 visiting the schools, to the board of education and the board of
13 supervisors of his or her county.

14 (2) (A) For fiscal years 2004–05 to 2006–07, inclusive, to the
15 extent that funds are appropriated for purposes of this paragraph,
16 the county superintendent, or his or her designee, shall annually
17 ~~present~~ *submit* a report, at a regularly scheduled November board
18 meeting, to the governing board of each school district under his
19 or her jurisdiction, the county board of education of his or her
20 county, and the board of supervisors of his or her county
21 describing the state of the schools in the county or of his or her
22 office that are ranked in deciles 1 to 3, inclusive, of the 2003 base
23 Academic Performance Index (API), as defined in subdivision
24 (b) of Section 17592.70, and shall include, among other things,
25 his or her observations while visiting the schools and his or her
26 determinations for each school regarding the status of all of the
27 circumstances listed in subparagraph (I) and teacher
28 misassignments and teacher vacancies. As a condition for receipt
29 of funds, the county superintendent, or his or her designee, shall
30 use a standardized template to report the circumstances listed in
31 subparagraph (I) and teacher misassignments and teacher
32 vacancies, unless the current annual report being used by the
33 county superintendent, or his or her designee, already includes
34 those details ~~with the same level of specificity that is otherwise~~
35 ~~required by this subdivision~~ *for each school*.

36 (B) Commencing with the 2007–08 fiscal year, to the extent
37 that funds are appropriated for purposes of this paragraph, the
38 county superintendent, or his or her designee, shall annually
39 ~~present~~ *submit* a report, at a regularly scheduled November board
40 meeting, to the governing board of each school district under his

1 or her jurisdiction, the county board of education of his or her
2 county, and the board of supervisors of his or her county
3 describing the state of the schools in the county or of his or her
4 office that are ranked in deciles 1 to 3, inclusive, of the 2006
5 *base* API, pursuant to Section 52056. As a condition for the
6 receipt of funds, the annual report shall include the
7 determinations *for each school* made by the county
8 superintendent, or his or her designee, *regarding the status* of all
9 of the circumstances listed in subparagraph (I) and teacher
10 misassignments and teacher vacancies, and the county
11 superintendent, or his or her designee, shall use a standardized
12 template to report the circumstances listed in subparagraph (I)
13 and teacher misassignments and teacher vacancies, unless the
14 current annual report being used by the county superintendent, or
15 his or her designee, already includes those details with the same
16 level of specificity that is otherwise required by this subdivision.
17 For purposes of this section, schools ranked in deciles 1 to 3,
18 inclusive, on the 2006 base API shall include any schools
19 determined by the department to meet either of the following:

- 20 (i) The school meets all of the following criteria:
21 (I) Does not have a valid base API score for 2006.
22 (II) Is operating in fiscal year 2007–08 and was operating in
23 fiscal year 2006–07 during the Standardized Testing and
24 Reporting (STAR) Program testing period.
25 (III) Has a valid base API score for 2005 that was ranked in
26 deciles 1 to 3, inclusive, in that year.
27 (ii) The school has an estimated base API score for 2006 that
28 would be in deciles 1 to 3, inclusive.
29 (C) The department shall estimate an API score for any school
30 meeting the criteria of subclauses (I) and (II) of clause (i) of
31 subparagraph (B) of paragraph (2) and not meeting the criteria of
32 subclause (III) of clause (i) of subparagraph (B) of paragraph (2),
33 using available testing scores and any weighting or corrective
34 factors it deems appropriate. The department shall post the API
35 scores on its Internet Web site on or before _____ *May 1*.
36 (D) For purposes of this section, references to schools ranked
37 in deciles 1 to 3, inclusive, on the 2006 base API shall exclude
38 any schools operated by county offices of education pursuant to
39 Section 56140, as determined by the department.

(E) (i) Commencing with the 2010–11 fiscal year and every third year thereafter, the Superintendent shall identify a list of schools ranked in deciles 1 to 3, inclusive, of the API for which the county superintendent, or his or her designee, shall annually ~~present~~ *submit* a report, at a regularly scheduled November board meeting, to the governing board of each school district under his or her jurisdiction, the county board of education of his or her county, and the board of supervisors of his or her county that describes the state of the schools in the county *or of his or her office that are ranked in deciles 1 to 3, inclusive, of the base API as defined in clause (ii).*

(ii) For the 2010–11 fiscal year, the list of schools *ranked in deciles 1 to 3, inclusive, of the base API shall be updated based on each school's base API score for 2009–10, and in subsequent years shall be based on the year preceding the third year consistent with clause (i); updated using the criteria set forth in clauses (i) and (ii) of subparagraph (B), subparagraph (C), and subparagraph (D), as applied to the 2009 base API and thereafter shall be updated every third year using the criteria set forth in clauses (i) and (ii) of subparagraph (B), subparagraph (C), and subparagraph (D), as applied to the base API of the year preceding the third year consistent with clause (i).*

(iii) As a condition for the receipt of funds, the annual report shall include the determinations *for each school* made by the county superintendent, or his or her designee, *regarding the status* of all of the circumstances listed in subparagraph (I) and teacher misassignments and teacher vacancies, and the county superintendent, or his or her designee, shall use a standardized template to report the circumstances listed in subparagraph (I) and teacher misassignments and teacher vacancies, unless the current annual report being used by the county superintendent, or his or her designee, already includes those details with the same level of specificity that is otherwise required by this subdivision.

(F) The county superintendent of the Counties of Alpine, Amador, Del Norte, Mariposa, Plumas, Sierra, and the City and County of San Francisco shall contract with another county office of education or an independent auditor to conduct the required visits and make all reports required by this paragraph.

~~(G) The results of the visits or audits, including, but not limited to, information about textbook sufficiency and facility~~

1 conditions, shall be reported to the governing board of the school
2 district on a quarterly basis at a regularly scheduled meeting held
3 in accordance with public notification requirements and the same
4 level of specificity that annual reports are required to comply
5 with by this subdivision. If the county superintendent, or his or
6 her designee, fails to conduct any visits or audits within a quarter,
7 the quarterly report shall report that fact.

8 *(G) On a quarterly basis, the county superintendent, or his or*
9 *her designee, shall report the results of the visits and reviews*
10 *conducted that quarter to the governing board of the school*
11 *district at a regularly scheduled meeting held in accordance with*
12 *public notification requirements. The results of the visits and*
13 *reviews shall include the determinations of the county*
14 *superintendent, or his or her designee, for each school regarding*
15 *the status of all of the circumstances listed in subparagraph (I)*
16 *and teacher misassignments and teacher vacancies. If the county*
17 *superintendent, or his or her designee, conducts no visits or*
18 *reviews in a quarter, the quarterly report shall report that fact.*

19 (H) The visits made pursuant to this paragraph shall be
20 conducted at least annually and shall meet the following criteria:

21 (i) Minimize disruption to the operation of the school.
22 (ii) Be performed by individuals who meet the requirements of
23 Section 45125.1.

24 (iii) Consist of not less than 25 percent unannounced visits in
25 each county. During unannounced visits in each county, the
26 county superintendent shall not demand access to documents or
27 specific school personnel. Unannounced visits shall only be used
28 to observe the condition of school repair and maintenance, and
29 the sufficiency of instructional materials, as defined by Section
30 60119.

31 (I) The priority objective of the visits made pursuant to this
32 paragraph shall be to determine the status of all of the following
33 circumstances:

34 (i) Sufficient textbooks as defined in Section 60119 and as
35 specified in subdivision (i).

36 (ii) The condition of a facility that poses an emergency or
37 urgent threat to the health or safety of pupils or staff as defined in
38 district policy or paragraph (1) of subdivision (c) of Section
39 17592.72.

(iii) The accuracy of data reported on the school accountability report card with respect to the availability of sufficient textbooks and instructional materials, as defined by Section 60119, and the safety, cleanliness, and adequacy of school facilities, including good repair as required by Sections 17014, 17032.5, 17070.75, and 17089.

(J) The county superintendent may make the status determinations described in subparagraph (I) during a single visit or multiple visits. In determining whether to make a single visit or multiple visits for this purpose, the county superintendent shall take into consideration factors such as cost-effectiveness, disruption to the schoolsite, deadlines, and the availability of qualified reviewers.

(K) If the county superintendent determines that the condition of a facility poses an emergency or urgent threat to the health or safety of pupils or staff as defined in district policy or paragraph (1) of subdivision (c) of Section 17592.72, or is not in good repair, as specified in subdivision (d) of Section 17002 and required by Sections 17014, 17032.5, 17070.75, and 17089, the county superintendent may, *among other things*, do any of the following:

(i) Return to the school to verify repairs.

(ii) Prepare a report that specifically identifies and documents the areas or instances of noncompliance if the district has not provided evidence of successful repairs; within 30 days of the county superintendent's visit or, for major projects, has not provided evidence that the repairs will be conducted in a timely manner. The report may be provided to the governing board of the school district. If the report is provided to the school district, it shall be presented at a regularly scheduled meeting held in accordance with public notification requirements. The county superintendent shall post the report on its Internet Web site. The report shall be removed from the Internet Web site when the county superintendent verifies the repairs have been completed.

(d) Distribute all laws, reports, circulars, instructions, and blanks that he or she may receive for the use of the school officers.

(e) Annually present a report to the governing board of the school district and the Superintendent regarding the fiscal solvency of any school district with a disapproved budget,

1 qualified interim certification, or a negative interim certification,
2 or that is determined at any time to be in a position of fiscal
3 uncertainty pursuant to Section 42127.6.

4 (f) Keep in his or her office the reports of the Superintendent.

5 (g) Keep a record of his or her official acts, and of all the
6 proceedings of the county board of education, including a record
7 of the standing, in each study, of all applicants for certificates
8 who have been examined, which shall be open to the inspection
9 of any applicant or his or her authorized agent.

10 (h) Enforce the course of study.

11 (i) (1) Enforce the use of state textbooks and instructional
12 materials and of high school textbooks and instructional
13 materials regularly adopted by the proper authority in accordance
14 with Section 51050.

15 (2) For purposes of this subdivision, sufficient textbooks or
16 instructional materials has the same meaning as in subdivision (c)
17 of Section 60119.

18 (3) (A) Commencing with the 2005–06 school year, if a
19 school is ranked in any of deciles 1 to 3, inclusive, of the 2003
20 base API, as defined in subdivision (b) of Section 17592.70, and
21 not currently under review pursuant to a state or federal
22 intervention program, the county superintendent shall specifically
23 review that school at least annually as a priority school. A review
24 conducted for purposes of this paragraph shall be completed by
25 the fourth week of the school year. For the 2004–05 fiscal year
26 only, the county superintendent shall make a diligent effort to
27 conduct a visit to each school pursuant to this paragraph within
28 120 days of receipt of funds for this purpose.

29 (B) In order to facilitate the review of instructional materials
30 before the fourth week of the school year, the county
31 superintendent of schools in a county with 200 or more schools
32 that are ranked in any of deciles 1 to 3, inclusive, of the 2003
33 base API, as defined in subdivision (b) of Section 17592.70, may
34 utilize a combination of visits and written surveys of teachers for
35 the purpose of determining sufficiency of textbooks and
36 instructional materials in accordance with subparagraph (A) of
37 paragraph (1) of subdivision (a) of Section 60119 and as defined
38 in subdivision (c) of Section 60119. If a county superintendent of
39 schools elects to conduct written surveys of teachers, the county
40 superintendent of schools shall visit the schools surveyed within

1 the same academic year to verify the accuracy of the information
2 reported on the surveys. ~~If a county superintendent determines~~
3 ~~that a school does not have sufficient textbooks or instructional~~
4 ~~materials, he or she shall provide a copy of the insufficiency~~
5 ~~report described in paragraph (4) to the school district within 10~~
6 ~~business days after the report is prepared, if both of the following~~
7 ~~apply:~~

8 ~~(i) The county superintendent surveys the teachers at the~~
9 ~~school.~~

10 ~~(ii) For the previous two consecutive years, the county~~
11 ~~superintendent found sufficient textbooks and instructional~~
12 ~~materials at the school. a county superintendent surveys teachers~~
13 ~~at a school in which the county superintendent has found~~
14 ~~sufficient textbooks and instructional materials for the previous~~
15 ~~two consecutive years and determines that the school does not~~
16 ~~have sufficient textbooks or instructional materials, the county~~
17 ~~superintendent shall within 10 business days provide a copy of~~
18 ~~the insufficiency report to the school district as set forth in~~
19 ~~paragraph (4).~~

20 (C) For purposes of this paragraph, “written surveys” may
21 include paper and electronic or online surveys.

22 (4) If the county superintendent determines that a school does
23 not have sufficient textbooks or instructional materials in
24 accordance with subparagraph (A) of paragraph (1) of
25 subdivision (a) of Section 60119 and as defined by subdivision
26 (c) of Section 60119, the county superintendent shall do all of the
27 following:

28 (A) Prepare a report that specifically identifies and documents
29 the areas or instances of noncompliance.

30 (B) Provide within five business days of the review, a copy of
31 the report to the school district, as provided in subdivision (c), or,
32 if applicable, provide a copy of the report to the school district
33 within 10 business days pursuant to subparagraph (B) of
34 paragraph (3).

35 (C) Provide the school district with the opportunity to remedy
36 the deficiency. The county superintendent shall ensure
37 remediation of the deficiency no later than the second month of
38 the school term.

39 (D) If the deficiency is not remedied as required pursuant to
40 subparagraph (C), the county superintendent shall request the

1 department to purchase the textbooks or instructional materials
2 necessary to comply with the sufficiency requirement of this
3 subdivision. If the department purchases textbooks or
4 instructional materials for the school district, the department shall
5 issue a public statement at the first regularly scheduled meeting
6 of the state board occurring immediately after the department
7 receives the county superintendent's request and that meets the
8 applicable public notice requirements, indicating that the district
9 superintendent and the governing board of the school district
10 failed to provide pupils with sufficient textbooks or instructional
11 materials as required by this subdivision. Before purchasing the
12 textbooks or instructional materials, the department shall consult
13 with the district to determine which textbooks or instructional
14 materials to purchase. All purchases of textbooks or instructional
15 materials shall comply with Chapter 3.25 (commencing with
16 Section 60420) of Part 33. The amount of funds necessary for the
17 purchase the textbooks and materials is a loan to the school
18 district receiving the textbooks or instructional materials. Unless
19 the school district repays the amount owed based upon an
20 agreed-upon repayment schedule with the Superintendent, the
21 Superintendent shall notify the Controller and the Controller
22 shall deduct an amount equal to the total amount used to
23 purchase the textbooks and materials from the next principal
24 apportionment of the district or from another apportionment of
25 state funds.

26 (j) Preserve carefully all reports of school officers and
27 teachers.

28 (k) Deliver to his or her successor, at the close of his or her
29 official term, all records, books, documents, and papers
30 belonging to the office, taking a receipt for them, which shall be
31 filed with the department.

32 (l) (1) Submit two reports during the fiscal year to the county
33 board of education in accordance with the following:

34 (A) The first report shall cover the financial and budgetary
35 status of the county office of education for the period ending
36 October 31. The second report shall cover the period ending
37 January 31. Both reports shall be reviewed by the county board
38 of education and approved by the county superintendent of
39 schools no later than 45 days after the close of the period being
40 reported.

(B) As part of each report, the county superintendent shall certify in writing whether or not the county office of education is able to meet its financial obligations for the remainder of the fiscal year and, based on current forecasts, for two subsequent fiscal years. The certifications shall be classified as positive, qualified, or negative, pursuant to standards prescribed by the Superintendent, for the purposes of determining subsequent state agency actions pursuant to Section 1240.1. For purposes of this subdivision, a negative certification shall be assigned to any county office of education that, based upon current projections, will not meet its financial obligations for the remainder of the fiscal year or for the subsequent fiscal year. A qualified certification shall be assigned to any county office of education that may not meet its financial obligations for the current fiscal year or two subsequent fiscal years. A positive certification shall be assigned to any county office of education that will meet its financial obligations for the current fiscal year and subsequent two fiscal years. In accordance with those standards, the Superintendent may reclassify any certification. If a county office of education receives a negative certification, the Superintendent, or his or her designee, may exercise the authority set forth in subdivision (c) of Section 1630. Copies of each certification, and of the report containing that certification, shall be sent to the Superintendent at the time the certification is submitted to the county board of education. Copies of each qualified or negative certification and the report containing that certification shall be sent to the Controller at the time the certification is submitted to the county board of education.

(2) All reports and certifications required under this subdivision shall be in a format or on forms prescribed by the Superintendent, and shall be based on standards and criteria for fiscal stability adopted by the State Board of Education pursuant to Section 33127. The reports and supporting data shall be made available by the county superintendent of schools to any interested party upon request.

(3) This subdivision does not preclude the submission of additional budgetary or financial reports by the county superintendent to the county board of education or to the Superintendent.

(4) The county superintendent of schools is not responsible for the fiscal oversight of the community colleges in the county, however, he or she may perform financial services on behalf of those community colleges.

(m) If requested, act as agent for the purchase of supplies for the city and high school districts of his or her county.

(n) For purposes of Section 44421.5, report to the Commission on Teacher Credentialing the identity of any certificated person who knowingly and willingly reports false fiscal expenditure data relative to the conduct of any educational program. This requirement applies only if, in the course of his or her normal duties, the county superintendent of schools discovers information that gives him or her reasonable cause to believe that false fiscal expenditure data relative to the conduct of any educational program has been reported.

SEC. 2. Section 1242 is added to the Education Code, to read:

1242. (a) Commencing with the 2006–07 fiscal year, funds appropriated pursuant to Item 6110-266-0001 of Section 2.0 of Chapter 47 of the Statutes of 2006 to county offices of education for ~~Williams audits~~ *site visits* conducted pursuant to Section 1240, shall be allocated as follows:

(1) Two thousand five hundred dollars (\$2,500) for each elementary school.

(2) Three thousand five hundred dollars (\$3,500) for each middle or junior high school.

(3) Five thousand dollars (\$5,000) for each high school.

~~(b) County offices of education shall receive supplemental funding for sites that are 20 percent larger than the average of all sites, as follows:~~

~~(1) Two dollars and fifty cents (\$2.50) per pupil for each elementary school with a pupil enrollment of more than 856.~~

~~(2) Three dollars and fifty cents (\$3.50) per pupil for each middle or junior high school with a pupil enrollment of more than 1,427.~~

~~(3) Five dollars (\$5.00) per pupil for each high school with a pupil enrollment of more than 2,296.~~

(b) In addition to the funds described in subdivision (a), county offices of education shall receive additional funding for sites whose enrollment in the prior year is 20 percent greater than the average enrollment of all sites for the prior year as follows:

1 (1) Two dollars and fifty cents (\$2.50) for each pupil that
2 exceeds a total elementary school enrollment of 856 pupils.

3 (2) Three dollars and fifty cents (\$3.50) for each pupil that
4 exceeds a total middle school or junior high school enrollment of
5 1,427 pupils.

6 (3) Five dollars (\$5.00) for each pupil that exceeds a total high
7 school enrollment of 2,296 pupils.

8 (c) County offices of education that are responsible for visiting
9 more than 150 schoolsites shall receive an additional allocation
10 of one dollar (\$1.00) per pupil for the total *prior year* enrollment
11 of all sites visited.

12 (e)–

13 (d) The minimum amount for allocation pursuant to this
14 section to county offices of education shall be ten thousand
15 dollars (\$10,000).

16 SEC. 3. Section 1242.5 is added to the Education Code, to
17 read:

18 1242.5. On or before ~~January~~ *March* 31, 2007, the department
19 shall review the actual costs of ~~2006–07~~ 2005–06 fiscal year
20 ~~Williams audits site visits~~ conducted pursuant to Section 1240. If
21 the department determines that a county office of education did
22 not expend the funds allocated for this purpose during the
23 2006–07 fiscal year, the amount that exceeds the amount spent
24 shall revert to the extraordinary cost pool created by Chapter 710
25 of the Statutes of 2005 and shall be available to cover the
26 extraordinary costs incurred by county offices of education as a
27 result of the reviews conducted pursuant to Section 1240. Based
28 on a determination by the department and the Department of
29 Finance that is was necessary for a county office of education to
30 incur extraordinary costs to conduct the ~~Williams audits site~~
31 *visits*, funds in the amount necessary to cover these costs shall be
32 allocated to the county office of education by June 30, 2007.

33 SEC. 4. Section 17002 of the Education Code is amended to
34 read:

35 17002. The following terms wherever used or referred to in
36 this chapter, shall have the following meanings, respectively,
37 unless a different meaning appears from the context:

38 (a) “Apportionment” means a reservation of funds necessary
39 to finance the cost of any project approved by the board for lease
40 to an applicant school district.

1 (b) “Board” means the State Allocation Board.

2 (c) “Cost of project” includes, but is not limited to, the cost of
3 all real estate property rights, and easements acquired, and the
4 cost of developing the site and streets and utilities immediately
5 adjacent thereto, the cost of construction, reconstruction, or
6 modernization of buildings and the furnishing and equipping,
7 including the purchase of educational technology hardware, of
8 those buildings, the supporting wiring and cabling, and the
9 technological modernization of existing buildings to support that
10 hardware, the cost of plans, specifications, surveys, and estimates
11 of costs, and other expenses that are necessary or incidental to
12 the financing of the project. For purposes of this section,
13 “educational technology hardware” includes, but is not limited
14 to, computers, telephones, televisions, and video cassette
15 recorders.

16 ~~(d) (1) “Good repair” means the facility is maintained in a~~
17 ~~manner that assures that it is clean, safe, and functional as~~
18 ~~determined pursuant to an interim school facility inspection and~~
19 ~~evaluation instrument developed by the Office of Public School~~
20 ~~Construction (OPSC) or a local evaluation instrument that meets~~
21 ~~the same criteria, until the school facility inspection and~~
22 ~~evaluation instrument is developed and approved by the state~~
23 ~~board. The school facility inspection and evaluation instrument~~
24 ~~and local evaluation instrument that meet the criteria of this~~
25 ~~subdivision shall not require capital enhancements beyond the~~
26 ~~standards to which the facility was designed and constructed. In~~
27 ~~order to ensure that school facilities are clean, safe, and~~
28 ~~functional, the school facility inspection and evaluation~~
29 ~~instrument and local evaluation instrument shall include at least~~
30 ~~the following criteria:~~

31 *(d) (1) “Good repair” means the facility is maintained in a*
32 *manner that assures that it is clean, safe, and functional as*
33 *determined pursuant to a school facility inspection and*
34 *evaluation instrument developed by the Office of Public School*
35 *Construction and approved by the board or a local evaluation*
36 *instrument that meets the same criteria. Until the school facility*
37 *inspection and evaluation instrument is approved by the board,*
38 *“good repair” means the facility is maintained in a manner that*
39 *assures that it is clean, safe, and functional as determined by the*
40 *interim evaluation instrument developed by the Office of Public*

1 *School Construction or a local evaluation instrument that meets*
2 *the same criteria as the interim evaluation instrument. The*
3 *school facility inspection and evaluation instrument and local*
4 *evaluation instruments that meet the minimum criteria of this*
5 *subdivision shall not require capital enhancements beyond the*
6 *standards to which the facility was designed and constructed. In*
7 *order to provide that school facilities are reviewed to be clean,*
8 *safe, and functional, the school facility inspection and evaluation*
9 *instrument and local evaluation instruments shall include at least*
10 *the following criteria:*

11 (A) Gas systems and pipes appear and smell safe, functional,
12 and free of leaks.

13 (B) (i) Mechanical systems, including heating, ventilation,
14 and air conditioning systems, are functional and unobstructed.

15 (ii) Appear to supply adequate amount of air to all classrooms,
16 work spaces, and facilities.

17 (iii) Maintain interior temperatures within normally acceptable
18 ranges.

19 (C) Doors and windows are intact, functional and open, close,
20 and lock as designed, unless there is a valid reason they should
21 not function as designed.

22 (D) Fences and gates are intact, functional, and free of holes
23 and other conditions that could present a safety hazard to pupils,
24 staff, or others. Locks and other security hardware function as
25 designed.

26 (E) Interior surfaces, including walls, floors, and ceilings, are
27 free of safety hazards ~~including, but not limited to, from tears,~~
28 holes, missing floor and ceiling tiles, torn carpet, ~~or water~~
29 ~~damage~~ *water damage, or other cause. Ceiling tiles are intact.*
30 Surfaces display no evidence of mold or mildew.

31 (F) Hazardous and flammable materials are stored properly.
32 No evidence of peeling, chipping, or cracking paint is apparent.
33 No indicators of mold, mildew, or asbestos exposure are evident.
34 There is no apparent evidence of hazardous materials that may
35 pose a threat to the health and safety of pupils or staff.

36 (G) Structures, including posts, beams, supports for portable
37 classrooms and ramps, and other structural ~~building~~ *building*
38 members appear intact, secure, and functional as designed.
39 Ceilings and floors are not sloping or sagging beyond their

1 intended design. There is no visible evidence of severe cracks,
2 dry rot, mold, or damage that undermines structural components.

3 (H) Fire sprinklers, fire extinguishers, emergency alarm
4 systems, and all emergency equipment and systems appear to be
5 functioning properly. Fire alarm pull stations are clearly visible.
6 Fire extinguishers are current and placed in all required areas,
7 including every classroom and assembly area. Emergency exits
8 are clearly marked and unobstructed.

9 (I) Electrical systems, components, and equipment, including
10 switches, junction boxes, panels, wiring, outlets, and light
11 fixtures, are securely enclosed, properly covered and guarded
12 from pupil access, and appear to be working properly.

13 (J) Lighting appears to be adequate and working properly.
14 Lights do not flicker, dim, or malfunction, and there is no
15 unusual hum or noise from light fixtures. Exterior lights onsite
16 appear to be working properly.

17 (K) No visible or odorous indicators of pest or vermin
18 infestation are evident.

19 (L) Interior and exterior drinking fountains are functional,
20 accessible, and free of leaks. Drinking fountain water pressure is
21 adequate. Fountain water is clear and without unusual taste or
22 odor, and moss, mold, or excessive staining is not evident.

23 (M) (i) Restrooms and restroom fixtures are functional.

24 (ii) Appear to be maintained and stocked with supplies
25 regularly.

26 (iii) Appear to be accessible to pupils during the schoolday.

27 (iv) Appear to be in compliance with Section 35292.5.

28 (N) The sanitary sewer system controls odor as designed,
29 displays no signs of stoppage, backup, or flooding, in the
30 facilities or on school grounds, and appears to be functioning
31 properly.

32 (O) Roofs, gutters, roof drains, and downspouts appear to be
33 functioning properly and are free of visible damage and evidence
34 of disrepair when observed from the ground inside and outside of
35 the building.

36 (P) The school grounds do not exhibit signs of drainage
37 problems, such as visible evidence of flooded areas, eroded soil,
38 water damage to asphalt playgrounds or parking areas, or
39 clogged storm drain inlets.

1 (Q) Playground equipment and exterior fixtures, seating,
2 tables, and equipment are functional and free of significant
3 cracks, trip hazards, holes, deterioration that affects functionality
4 or safety, and other health and safety hazards.

5 (R) School grounds, fields, walkways, and parking lot surfaces
6 are free of significant cracks, trip hazards, holes, deterioration
7 that affects functionality or safety, and other health and safety
8 hazards.

9 (S) Overall cleanliness of the school grounds, buildings,
10 common areas, and individual rooms demonstrates that all areas
11 appear to have been cleaned regularly, and are free of
12 accumulated refuse and unabated graffiti. Restrooms, drinking
13 fountains, and food preparation or serving areas appear to have
14 been cleaned each day that the school is in session.

15 ~~(2) (A) On or before January 1, 2007, the OPSC shall develop~~
16 ~~the school facility inspection and evaluation instrument and~~
17 ~~instructions for users. The school facility and evaluation~~
18 ~~instrument, and local evaluation instruments that meet the criteria~~
19 ~~of this subdivision, shall include a value system that county~~
20 ~~offices of education can use to evaluate school sites and assign a~~
21 ~~value of “good,” “fair,” or “poor” for each of the criterion listed~~
22 ~~in paragraph (1).~~

23 ~~(B) On or before July 1, 2007, the OPSC shall develop, in~~
24 ~~consultation with county offices of education, a value system for~~
25 ~~assigning an overall summary of “exemplary,” “good,” “fair,” or~~
26 ~~“poor” for each school based on the values assigned pursuant to~~
27 ~~subparagraph (A).~~

28 *(2) (A) On or before January 1, 2007, the Office of Public*
29 *School Construction shall develop the school facility inspection*
30 *and evaluation instrument and instructions for users. The school*
31 *facility inspection and evaluation instrument and local*
32 *evaluation instruments that meet the minimum criteria of this*
33 *subdivision shall include a system that will evaluate each facility,*
34 *based on the criteria listed in paragraph (1), on a scale of*
35 *“good,” “fair,” or “poor,” as developed by the Office of Public*
36 *School Construction, and provide an overall summary of the*
37 *conditions at each school on a scale of “exemplary,” “good,”*
38 *“fair,” or “poor.”*

39 *(B) On or before July 1, 2007, the Office of Public School*
40 *Construction, in consultation with county offices of education,*

1 *shall define objective criteria for determining the overall*
2 *summary of the conditions of schools.*

3 (C) *For purposes of this paragraph, “users” means local*
4 *educational agencies that participate in either of the programs*
5 *established pursuant to this chapter, Chapter 12.5 (commencing*
6 *with Section 17070.10), or Section 17582.*

7 (e) “Lease” includes a lease with an option to purchase.

8 (f) “Project” means the facility being constructed or acquired
9 by the state for rental to the applicant school district and may
10 include the reconstruction or modernization of existing buildings,
11 construction of new buildings, the grading and development of
12 sites, acquisition of sites therefor and any easements or
13 rights-of-way pertinent thereto or necessary for its full use
14 including the development of streets and utilities.

15 (g) “Property” includes all property, real, personal or mixed,
16 tangible or intangible, or any interest therein necessary or
17 desirable for carrying out the purposes of this chapter.

18 SEC. 5. Section 17592.72 of the Education Code is amended
19 to read:

20 17592.72. (a) (1) For the 2005–06 fiscal year, all moneys in
21 the School Facilities Emergency Repair Account are available for
22 reimbursement to schools ranked in deciles 1 to 3, inclusive, on
23 the Academic Performance Index, pursuant to Section 52056,
24 based on the 2003 base Academic Performance Index score for
25 each school, as defined in subdivision (b) of Section 17592.70, to
26 meet the repair costs of the school district projects that meet the
27 criteria specified in subdivisions (c) and (d) and as approved by
28 the State Allocation Board.

29 (2) Commencing with the 2006–07 fiscal year, all moneys in
30 the School Facilities Emergency Repair Account are available for
31 the purpose of providing emergency repair grants to schools
32 ranked in deciles 1 to 3, inclusive, on the Academic Performance
33 ~~index~~ *Index*, pursuant to Section 52056, based on the 2003 base
34 Academic Performance Index score for each school, as defined in
35 subdivision (b) of Section 17592.70, to cover the costs of school
36 district repair projects that meet the criteria specified in
37 subdivisions (c) and (d). The State Allocation Board shall
38 establish a grant application process, grant parameters,
39 substantial progress requirements, and a process for providing
40 certification of the completion of projects. The State Allocation

1 Board shall post the grant application form on its Internet Web
2 site.

3 (3) For subsequent fiscal years, schools shall be eligible for
4 funding based on the ~~API~~ *Academic Performance Index* scores as
5 specified in paragraph (2) of subdivision (c) of Section 1240.

6 (b) (1) It is the intent of the Legislature that each school
7 district exercise due diligence in the administration of deferred
8 maintenance and regular maintenance in order to avoid the
9 occurrence of emergency repairs.

10 (2) Funds made available pursuant to this article shall
11 supplement, not supplant, existing funds available for
12 maintenance of school facilities.

13 (3) The board is authorized to deny future funding pursuant to
14 this article to a school district if the board determines that there is
15 a pattern of failure to exercise due diligence pursuant to
16 paragraph (1) or supplantation. If the board finds a pattern of
17 failure to exercise due diligence, the board shall notify the county
18 superintendent of schools in which the school district is located.

19 (c) (1) For purposes of this article, “emergency facilities
20 needs” means structures or systems that are in a condition that
21 poses a threat to the health and safety of pupils or staff while at
22 school. These projects may include, but are not limited to, the
23 following types of facility repairs or replacements:

24 (A) Gas leaks.

25 (B) Nonfunctioning heating, ventilation, fire sprinklers, or
26 air-conditioning systems.

27 (C) Electrical power failure.

28 (D) Major sewer line stoppage.

29 (E) Major pest or vermin infestation.

30 (F) Broken windows or exterior doors or gates that will not
31 lock and that pose a security risk.

32 (G) Abatement of hazardous materials previously
33 undiscovered that pose an immediate threat to pupil or staff.

34 (H) Structural damage creating a hazardous or uninhabitable
35 condition.

36 (2) For purposes of this section, “emergency facilities needs”
37 does not include any cosmetic or nonessential repairs.

38 (d) For the purpose of this section, structures or components
39 shall only be replaced if it is more cost-effective than repair.

1 SEC. 6. Section 35186 of the Education Code is amended to
2 read:

3 35186. (a) A school district shall use the uniform complaint
4 process it has adopted as required by Chapter 5.1 (commencing
5 with Section 4600) of Title 5 of the California Code of
6 Regulations, with modifications, as necessary, to help identify
7 and resolve any deficiencies related to instructional materials,
8 emergency or urgent facilities conditions that pose a threat to the
9 health and safety of pupils or staff, and teacher vacancy or
10 misassignment.

11 (1) A complaint may be filed anonymously. A complainant
12 who identifies himself or herself is entitled to a response if he or
13 she indicates that a response is requested. A complaint form shall
14 include a space to mark to indicate whether a response is
15 requested. If Section 48985 is otherwise applicable, the response,
16 if requested, and report shall be written in English and the
17 primary language in which the complaint was filed. All
18 complaints and responses are public records.

19 (2) The complaint form shall specify the location for filing a
20 complaint. A complainant may add as much text to explain the
21 complaint as he or she wishes.

22 (3) A complaint shall be filed with the principal of the school
23 or his or her designee. A complaint about problems beyond the
24 authority of the school principal shall be forwarded in a timely
25 manner but not to exceed 10 working days to the appropriate
26 school district official for resolution.

27 (b) The principal or the designee of the district superintendent,
28 as applicable, shall make all reasonable efforts to investigate any
29 problem within his or her authority. The principal or designee of
30 the district superintendent shall remedy a valid complaint within
31 a reasonable time period but not to exceed 30 working days from
32 the date the complaint was received. The principal or designee of
33 the district superintendent shall report to the complainant the
34 resolution of the complaint within 45 working days of the initial
35 filing. If the principal makes this report, the principal shall also
36 report the same information in the same timeframe to the
37 designee of the district superintendent.

38 (c) A complainant not satisfied with the resolution of the
39 principal or the designee of the district superintendent has the
40 right to describe the complaint to the governing board of the

1 school district at a regularly scheduled hearing of the governing
2 board. As to complaints involving a condition of a facility that
3 poses an emergency or urgent threat, as defined in paragraph (1)
4 of subdivision (c) of Section 17592.72, a complainant who is not
5 satisfied with the resolution proffered by the principal or the
6 designee of the district superintendent has the right to file an
7 appeal to the Superintendent, who shall provide a written report
8 to the State Board of Education describing the basis for the
9 complaint and, as appropriate, a proposed remedy for the issue
10 described in the complaint.

11 (d) A school district shall report summarized data on the
12 nature and resolution of all complaints on a quarterly basis to the
13 county superintendent of schools and the governing board of the
14 school district. The summaries shall be publicly reported on a
15 quarterly basis at a regularly scheduled meeting of the governing
16 board of the school district. The report shall include the number
17 of complaints by general subject area with the number of
18 resolved and unresolved complaints. The complaints and written
19 responses shall be available as public records.

20 (e) The procedure required pursuant to this section is intended
21 to address all of the following:

22 (1) A complaint related to instructional materials as follows:

23 (A) A pupil, including an English learner, does not have
24 standards-aligned textbooks or instructional materials or
25 state-adopted or district-adopted textbooks or other required
26 instructional material to use in class.

27 (B) A pupil does not have access to instructional materials to
28 use at home or after school.

29 (C) Textbooks or instructional materials are in poor or
30 unusable condition, have missing pages, or are unreadable due to
31 damage.

32 (2) A complaint related to teacher vacancy or misassignment
33 as follows:

34 (A) A semester begins and a teacher vacancy exists.

35 (B) A teacher who lacks credentials or training to teach
36 English learners is assigned to teach a class with more than
37 20-percent English learner pupils in the class. This subparagraph
38 does not relieve a school district from complying with state or
39 federal law regarding teachers of English learners.

1 (C) A teacher is assigned to teach a class for which the teacher
2 lacks subject matter competency.

3 (3) A complaint related to the condition of facilities that pose
4 an emergency or urgent threat to the health or safety of pupils or
5 staff as defined in paragraph (1) of subdivision (c) of Section
6 17592.72 and any other emergency conditions the school district
7 determines appropriate and the requirements established pursuant
8 to subdivision (a) of Section 35292.5.

9 (f) In order to identify appropriate subjects of complaint, a
10 notice shall be posted in each classroom in each school in the
11 school district notifying parents, guardians, pupils, and teachers
12 of the following:

13 (1) There should be sufficient textbooks and instructional
14 materials. For there to be sufficient textbooks and instructional
15 materials each pupil, including English learners, must have a
16 textbook or instructional materials, or both, to use in class and to
17 take home.

18 (2) School facilities must be clean, safe, and maintained in
19 good repair.

20 (3) There should be no teacher vacancies or misassignments as
21 defined in paragraphs (2) and (3) of subdivision (h).

22 (4) The location at which to obtain a form to file a complaint
23 in case of a shortage. Posting a notice downloadable from the
24 ~~Internet~~ Internet Web site of the department shall satisfy this
25 requirement.

26 (g) A local educational agency shall establish local policies
27 and procedures, post notices, and implement this section on or
28 before January 1, 2005.

29 (h) For purposes of this section, the following definitions
30 apply:

31 (1) "Good repair" has the same meaning as specified in
32 subdivision (d) of Section 17002.

33 (2) "Misassignment" means the placement of a certificated
34 employee in a teaching or services position for which the
35 employee does not hold a legally recognized certificate or
36 credential or the placement of a certificated employee in a
37 teaching or services position that the employee is not otherwise
38 authorized by statute to hold.

39 (3) "Teacher vacancy" means a position to which a single
40 designated certificated employee has not been assigned at the

1 beginning of the year for an entire year or, if the position is for a
2 one-semester course, a position to which a single designated
3 certificated employee has not been assigned at the beginning of a
4 semester for an entire semester.

5 SEC. 7. Section 60119 of the Education Code is amended to
6 read:

7 60119. (a) In order to be eligible to receive funds available
8 for the purposes of this article, the governing board of a school
9 district shall take the following actions:

10 (1) (A) The governing board shall hold a public hearing or
11 hearings at which the governing board shall encourage
12 participation by parents, teachers, members of the community
13 interested in the affairs of the school district, and bargaining unit
14 leaders, and shall make a determination, through a resolution, as
15 to whether each pupil in each school in the district has sufficient
16 textbooks or instructional materials, or both, that are aligned to
17 the content standards adopted pursuant to Section 60605 in each
18 of the following subjects, as appropriate, that are consistent with
19 the content and cycles of the curriculum framework adopted by
20 the state board:

21 (i) Mathematics.

22 (ii) Science.

23 (iii) History-social science.

24 (iv) English/language arts, including the English language
25 development component of an adopted program.

26 (B) The public hearing shall take place on or before the end of
27 the eighth week from the first day pupils attend school for that
28 year. A school district that operates schools on a multitrack,
29 year-round calendar shall hold the hearing on or before the end of
30 the eighth week from the first day pupils attend school for that
31 year on any tracks that begin a school year in August or
32 September. For purposes of the 2004–05 fiscal year only, the
33 governing board of a school district shall make a diligent effort to
34 hold a public hearing pursuant to this section on or before
35 December 1, 2004.

36 (C) As part of the hearing required pursuant to this section, the
37 governing board shall also make a written determination as to
38 whether each pupil enrolled in a foreign language or health
39 course has sufficient textbooks or instructional materials that are
40 consistent with the content and cycles of the curriculum

1 frameworks adopted by the state board for those subjects. The
2 governing board shall also determine the availability of
3 laboratory science equipment as applicable to science laboratory
4 courses offered in grades 9 to 12, inclusive. The provision of the
5 textbooks, instructional materials, or science equipment specified
6 in this subparagraph is not a condition of receipt of funds
7 provided by this subdivision.

8 (2) (A) If the governing board determines that there are
9 insufficient textbooks or instructional materials, or both, the
10 governing board shall provide information to classroom teachers
11 and to the public setting forth, in the resolution, for each school
12 in which an insufficiency exists, the percentage of pupils who
13 lack sufficient standards-aligned textbooks or instructional
14 materials in each subject area and the reasons that each pupil
15 does not have sufficient textbooks or instructional materials, or
16 both, and take any action, except an action that would require
17 reimbursement by the Commission on State Mandates, to ensure
18 that each pupil has sufficient textbooks or instructional materials,
19 or both, within two months of the beginning of the school year in
20 which the determination is made.

21 (B) In carrying out subparagraph (A), the governing board
22 may use money in any of the following funds:

23 (i) Any funds available for textbooks or instructional
24 materials, or both, from categorical programs, including any
25 funds allocated to school districts that have been appropriated in
26 the annual Budget Act.

27 (ii) Any funds of the school district that are in excess of the
28 amount available for each pupil during the prior fiscal year to
29 purchase textbooks or instructional materials, or both.

30 (iii) Any other funds available to the school district for
31 textbooks or instructional materials, or both.

32 (b) The governing board shall provide 10 days' notice of the
33 public hearing or hearings set forth in subdivision (a). The notice
34 shall contain the time, place, and purpose of the hearing and shall
35 be posted in three public places in the school district. The hearing
36 shall be held at a time that will encourage the attendance of
37 teachers and parents and guardians of pupils who attend the
38 schools in the district and shall not take place during or
39 immediately following school hours.

(c) (1) For purposes of this section, “sufficient textbooks or instructional materials” means that each pupil, including English learners, has a standards-aligned textbook or instructional materials, or both, to use in class and to take home. This paragraph does not require two sets of textbooks or instructional materials for each pupil.

(2) Sufficient textbooks or instructional materials as defined in paragraph (1), does not include photocopied sheets from only a portion of a textbook or instructional materials copied to address a shortage.

(d) Except for purposes of Section 60252, governing boards of school districts that receive funds for instructional materials from any state source, are subject to the requirements of this section only in a fiscal year in which the Superintendent determines that the base revenue limit for each school district will increase by at least 1 percent per unit of average daily attendance from the prior fiscal year.

SEC. 8. Notwithstanding any other provision of law, the remaining unencumbered balance of funds appropriated in paragraph (2) of subdivision (a) of Section 23 of Chapter 900 of the Statutes of 2004 shall remain available for expenditure through June 30, 2008, for the purposes set forth in paragraph (2) of subdivision (c) of Section 1240 of the Education Code and pursuant to Section 4 of Chapter 710 of the Statutes of 2005.

~~SEC. 8.~~

SEC. 9. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.